

Remarks

Claims 1-46 are pending and rejected.

Claims 4, 5, 12, 18 and 33 are objected to for various informalities.

Claims 1-8, 10-11, 13-15, 17, 25-42, 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall et al. (Pub. No.: US 2003/0093485, hereinafter Dougall) in view of Libenzi (Pat. No.: US 6,745,192, hereinafter Libenzi).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Walker et al. (Patent No.: 5,612,956, hereinafter Walker).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Keck et al. (Pub. No.: US 2004/0228414, hereinafter Keck).

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Choquette (Pat. No. 6,088,784, hereinafter Choquette).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Yasuda et al. (Pub. No.: US 2004/0205152, hereinafter Yasuda).

Claims 16, 18 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Ungstad (Pub. No.: US 2005/0114751).

Claims 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Rybicki et al. (Pat. No.: US 7,359,920, hereinafter Rybicki).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of

equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Amendments to Specification

Applicants have herein amended the specification to correct typographical errors. No new matter has been entered.

Accordingly, Applicants respectfully request entry of the amendments.

Amendments to Drawings

Applicants have herein amended Figures 1 – 9 to correct typographical errors and inadvertent omissions. Applicants provide herewith a new Figure 10.

Figure 1 has been amended to add reference numeral "23".

Figure 2 has been amended to change the reference from the “cable input” from “FIG. 2” to “FIG. 1”, and to change the reference numeral for the video decoder from “52” to “93”.

Figure 3 has been amended to: (a) change the reference numeral for the authoring system from “65” to “60”; (b) change the label associated with reference numeral “56” from “DID” to “PIF”; (c) change the label associated with reference numeral “55” from “PIDx” to “PIDX”; (d) add an additional callout, referencing the carousels, using reference numeral “50”; (e) modify references to each of the individual PID carousels to use reference numeral “51”; (f) change the “DID” label in “carousel PIDX” to “PIF”; and (g) change the reference numeral for the audio packets from “60” to “67”.

Figure 4 has been amended to change step 404 from reading “64-BIT CRC, HASH OR PSEUDORANDOM NUMBER FROM FILE NAME” to “64-BIT DID, SUCH AS CRC, HASH OR PSEUDORANDOM NUMBER, FROM FILE IDENTIFIER”. Figure 4 has been amended, in steps 406, 416, and 418, to change “FID” to “DID”. Figure 4 has been amended, at step 407, to change “DID” to “PIF”.

Figure 5 has been amended, in steps 514, 520, and 525, to change “FID” to “DID”.

Figure 7 has been amended to change the term “USER FIELDS” to “PAYLOAD DATA”.

Figure 8 has been amended to indicate that the 64 BITS output from CG 320 is the DID. Figure 8 has been amended to change “DID” to “PIF”. Figure 8 has been amended to change reference numeral “301” to “307”.

Figure 9 has been amended to indicate that the 64 BITS output from CG 320 is the DID. Figure 9 has been amended to change the output of CAT 330 from “DID” to “PIF”. Figure 9 has been amended to change “MCA” to “MCI”. Figure 9 has been amended to change reference numeral “301” to “307”.

Figures 1 – 9 have each been amended to correct change the total number of figures from 9 to 10.

Figure 10 is a new figure.

No new matter has been entered.

Accordingly, Applicants respectfully request entry of the amendments.

Rejection Under 35 U.S.C. 103

Claims 1-8, 10-11, 13-15, 17, 25-42 and 44-46

Claims 1-8, 10-11, 13-15, 17, 25-27, 32-42 and 44-46

Claims 1-8, 10-11, 13-15, 17, 25-27, 32-42 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi. The rejection is traversed.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l Co. v. Teleflex, Inc.*, 126 S. Ct. 2965 (2006); see also MPEP §2141.

According to MPEP §2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art" (*quoting, In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). In addition, to establish a prima facie case of obviousness the prior art reference (or references when combined) must teach or suggest all elements of the subject claim. *In re Wada*, 2007-3733 (BPAI Jan. 14, 2008) (*citing, CMFT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed.Cir. 2003)).

Dougall and Libenzi, alone or in combination, fail to teach or suggest all elements of claim 1.

Dougall discloses a system for scheduled streaming of best effort data or programs on channels from one of a plurality of controllers to one or more client nodes. As disclosed in Dougall, a program is a group of files and has program information indicating to a client node how to use the files of the program and a channel is a virtual path, and a client node can receive program files from different channels in a separable fashion. (Dougall, Abstract).

Dougall, however, fails to teach or suggest each and every element of Applicants' independent claim 1. Namely, Dougall fails to teach or suggest at least the limitations of "determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel selected to transport said file," "determining a first identifier based on the DID," and "transmitting, from the headend via the communications channel, one or more packets associated with the file, each of the one or more packets including the PID and the first identifier, wherein said first identifier is adapted to enable receivers of said communications channel to selectively receive one or more packets associated with the file among packets transported via the communications channel," as claimed in Applicants' claim 1.

Rather, Dougall merely discloses that digital audio-video signals are inputted as an MPEG-2 compliant transport stream (which is an interleaved sequence of transport packets), where each transport packet is a 188 byte packet with a four byte header and, further, that the header includes a thirteen bit long packet identifier. Dougall further discloses that each PID is uniquely assigned to one specific stream, and that a transport packet with a given PID only contains the data of that specific stream. (Dougall, Para. 0070).

Dougall is devoid of any teaching or suggestion of determining a packet identifier (PID) based on a DID, where the DID is determined using a file identifier. Dougall also is devoid of any teaching or suggestion of determining a first identifier based on a DID, where the DID is determined using a file identifier. Furthermore, Dougall is devoid of any teaching or suggestion of transmitting, from a headend via a communications channel, one or more packets associated with a file, where each of the one or more packets

includes a PID and a first identifier determined based on a DID, where the DID is determined using a file identifier. Thus, Dougall fails to teach or suggest Applicants' claim 1.

Furthermore, Libenzi fails to bridge the substantial gap between Dougall and Applicants' claim 1.

Libenzi discloses a system for providing a multi-tiered hierarchical transient message store. As disclosed in Libenzi, the hierarchical message store is logically structured with a plurality of storage nodes, where each storage node is dependently linked to one of a plurality of index nodes, and where each index node is dependently linked to a root node. As further disclosed in Libenzi, an incoming message is intercepted at a network domain boundary and assigned a unique filename, an index hash (of the unique filename, corresponding to one such index node) and a storage hash (of the unique filename, corresponding to one such storage node) are generated, and the message is stored in the hierarchical message store at the one such index node and the one such storage node. (Libenzi, Abstract).

Libenzi, however, alone or in combination with Dougall, fails to teach or suggest each and every element of Applicants' independent claim 1. Namely, Libenzi fails to teach or suggest at least the limitations of "determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel selected to transport said file," "determining a first identifier based on the DID," and "transmitting, from the headend via the communications channel, one or more packets associated with the file, each of the one or more packets including the PID and the first identifier, wherein said first identifier is adapted to enable receivers of said communications channel to selectively receive one or more packets associated with the file among packets transported via the communications channel," as claimed in Applicants' claim 1.

Rather, as disclosed in Libenzi, an index hash and a storage hash are generated using a filename, where the index hash corresponds to an index node and the storage hash corresponds to a storage node. The index hash of Libenzi does not teach or suggest the PID or first identifier of Applicants' claim 1. Similarly, the storage hash of Libenzi does not teach or suggest the PID or first identifier of Applicants' claim 1. Furthermore, Libenzi is devoid of any teaching or suggestion of transmitting, from a headend via a

communications channel, one or more packets associated with a file, where each of the one or more packets includes a PID and a first identifier determined based on a DID, where the DID is determined using a file identifier. Thus, Libenzi fails to teach or suggest Applicants' claim 1.

Thus, since Dougall and Libenzi each fail to teach or suggest the limitations of "determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel selected to transport said file," "determining a first identifier based on the DID," and "transmitting, from the headend via the communications channel, one or more packets associated with the file, each of the one or more packets including the PID and the first identifier, wherein said first identifier is adapted to enable receivers of said communications channel to selectively receive one or more packets associated with the file among packets transported via the communications channel," a combination of Dougall and Libenzi (assuming such combination is possible) fails to teach or suggest the limitations of "determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel selected to transport said file," "determining a first identifier based on the DID," and "transmitting, from the headend via the communications channel, one or more packets associated with the file, each of the one or more packets including the PID and the first identifier, wherein said first identifier is adapted to enable receivers of said communications channel to selectively receive one or more packets associated with the file among packets transported via the communications channel," as claimed in Applicants' claim 1.

Therefore, Applicants respectfully submit that claim 1 is allowable over Dougall in view of Libenzi under 35 U.S.C. 103. Similarly, independent claims 25, 32, 36, 42, 44 and 46 include limitations similar to the limitations of independent claim 1. Thus, for at least the reasons described hereinabove with respect to independent claim 1, Applicants respectfully submit that independent claims 25, 32, 36, 42, 44, and 46 are also allowable over Dougall in view of Libenzi under 35 U.S.C. 103. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Dougall in view of Libenzi under 35 U.S.C. 103.

As such, Applicants respectfully submit that claims 1-8, 10-11, 13-15, 17, 25-27, 32-42 and 44-46 are allowable over Dougall in view of Libenzi under 35 U.S.C. 103. Therefore, the rejection should be withdrawn.

Claims 28-31

Claims 28-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi. The rejection is traversed.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l Co. v. Teleflex, Inc.*, 126 S. Ct. 2965 (2006); see also MPEP §2141.

According to MPEP §2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art" (*quoting, In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). In addition, to establish a prima facie case of obviousness the prior art reference (or references when combined) must teach or suggest all elements of the subject claim. *In re Wada*, 2007-3733 (BPAI Jan. 14, 2008) (*citing, CMFT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed.Cir. 2003)).

Dougall and Libenzi, alone or in combination, fail to teach or suggest all elements of claim 28.

Dougall discloses a system for scheduled streaming of best effort data or programs on channels from one of a plurality of controllers to one or more client nodes. As disclosed in Dougall, a program is a group of files and has program information indicating to a client node how to use the files of the program and a channel is a virtual path, and a client node can receive program files from different channels in a separable fashion. (Dougall, Abstract).

Dougall, however, fails to teach or suggest each and every element of Applicants' independent claim 28. Namely, Dougall fails to teach or suggest at least the limitation of "receiving a list associated with the PID, the list containing a plurality of data identifiers (DIDs), each DID in the list corresponding to a respective set of at least one packet that is to be received using that PID," as claimed in Applicants' claim 28.

Rather, Dougall merely discloses that digital audio-video signals are inputted as an MPEG-2 compliant transport stream (which is an interleaved sequence of transport packets), where each transport packet is a 188 byte packet with a four byte header and, further, that the header includes a thirteen bit long packet identifier. Dougall further discloses that each PID is uniquely assigned to one specific stream, and that a transport packet with a given PID only contains the data of that specific stream. (Dougall, Para. 0070).

In the Office Action, the Examiner cites a specific portion of Dougall (namely, Para. 0036), asserting that the cited portion of Dougall discloses this limitation of Applicants' claim 28. Applicants respectfully disagree. The cited portion of Dougall is devoid of any teaching or suggestion of receiving any list associated with a packet identifier, much less a list having a plurality of data identifiers where each of the data identifiers corresponds to a respective set of at least one packet that is to be received using that packet identifier, as claimed in Applicants' claim 28. Rather, the cited portion of Dougall merely states that a client determines that a range of data words of a file were not received, and transmits a single packet on a return path to cause the range of data words to be retransmitted to the client. Thus, Dougall fails to teach or suggest Applicants' claim 28.

Furthermore, Libenzi fails to bridge the substantial gap between Dougall and Applicants' claim 28.

Libenzi discloses a system for providing a multi-tiered hierarchical transient message store. As disclosed in Libenzi, the hierarchical message store is logically structured with a plurality of storage nodes, where each storage node is dependently linked to one of a plurality of index nodes, and where each index node is dependently linked to a root node. As further disclosed in Libenzi, an incoming message is intercepted at a network domain boundary and assigned a unique filename, an index hash (of the unique filename, corresponding to one such index node) and a storage hash (of the unique filename, corresponding to one such storage node) are generated, and the message is stored in the hierarchical message store at the one such index node and the one such storage node. (Libenzi, Abstract).

Libenzi, however, alone or in combination with Dougall, fails to teach or suggest each and every element of Applicants' independent claim 28. Namely, Libenzi fails to teach or suggest at least the limitation of "receiving a list associated with the PID, the list containing a plurality of data identifiers (DIDs), each DID in the list corresponding to a respective set of at least one packet that is to be received using that PID," as claimed in Applicants' claim 28.

Rather, as disclosed in Libenzi, an index hash and a storage hash are generated using a filename, where the index hash corresponds to an index node and the storage hash corresponds to a storage node. Libenzi is devoid of any teaching or suggestion of receiving any list associated with a packet identifier, much less a list having a plurality of data identifiers where each of the data identifiers corresponds to a respective set of at least one packet that is to be received using that packet identifier, as claimed in Applicants' claim 28. Thus, Libenzi fails to teach or suggest Applicants' claim 28.

Thus, since Dougall and Libenzi each fail to teach or suggest the limitation of "receiving a list associated with the PID, the list containing a plurality of data identifiers (DIDs), each DID in the list corresponding to a respective set of at least one packet that is to be received using that PID," a combination of Dougall and Libenzi (assuming such combination is possible) fails to teach or suggest the limitation of "receiving a list associated with the PID, the list containing a plurality of data identifiers (DIDs), each

DID in the list corresponding to a respective set of at least one packet that is to be received using that PID,” as claimed in Applicants’ claim 28.

Therefore, Applicants respectfully submit that claim 28 is allowable over Dougall in view of Libenzi under 35 U.S.C. 103. Furthermore, since all of the dependent claims that depend from the independent claim include all the limitations of the independent claim from which they ultimately depend, each such dependent claim is also allowable over Dougall in view of Libenzi under 35 U.S.C. 103.

As such, Applicants respectfully submit that claims 28-31 are allowable over Dougall in view of Libenzi under 35 U.S.C. 103. Therefore, the rejection should be withdrawn.

Claims 3, 4, 9, 12, 16 and 18

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Walker. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Keck. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Choquette. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Yasuda. Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dougall in view of Libenzi, and further in view of Ungstad. The rejections are traversed.

Each of these grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 103 given Dougall and Libenzi. Because the rejection under 35 U.S.C. 103 given Dougall and Libenzi has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that the additional references supply that which is missing from Dougall and Libenzi to render the independent claims obvious, these grounds of rejection cannot be maintained.

As such, Applicants respectfully submit that claims 3, 4, 9, 12, 16 and 18 are allowable over Dougall and Libenzi in view of, respectively, Walker, Keck, Choquette, Yasuda, and Ungstad under 35 U.S.C. 103. Therefore, the rejections should be withdrawn.

Claim 43

Claim 43 is rejected under 35 U.S.C. 103 as being unpatentable over Dougall in view of Libenzi, and further in view of Ungstad. The rejection is traversed.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l Co. v. Teleflex, Inc.*, 126 S. Ct. 2965 (2006); see also MPEP §2141.

According to MPEP §2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art" (*quoting, In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). In addition, to establish a prima facie case of obviousness the prior art reference (or references when combined) must teach or suggest all elements of the subject claim. *In re Wada*, 2007-3733 (BPAI Jan. 14, 2008) (*citing, CMFT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed.Cir. 2003)).

Dougall, Libenzi, and Ungstad, alone or in combination, fail to disclose all elements of Applicants' independent claim 43.

As described hereinabove, Dougall discloses that digital audio-video signals are inputted as an MPEG-2 compliant transport stream (which is an interleaved sequence of

transport packets), where each transport packet is a 188 byte packet with a four byte header and, further, that the header includes a thirteen bit long packet identifier, where each PID is uniquely assigned to one specific stream, and a transport packet with a given PID only contains the data of that specific stream. (Dougall, Para. 0070).

Dougall, however, fails to teach or suggest each and every element of Applicants' independent claim 43, as arranged in the claim. Namely, Dougall fails to teach or suggest at least the limitations of "spinning a plurality of data units from the group consisting of packets and files without transmitting a directory of all of the data units being spun" and "calculating information used to spin the units of data by a common calculation that is used by the television converter to receive the units of data without a directory of all of the data units being spun," as claimed in Applicants' claim 43.

Rather, Dougall merely discloses transmission of best effort data that is formatted into transport packets. Dougall is devoid of any teaching or suggestion spinning a plurality of data units from the group consisting of packets and files. Dougall also is devoid of any teaching or suggestion of calculating information used to spin units of data, much less calculating information used to spin units of data using a calculation that is common to a headend and a television converter such that a directory of data units being spun does not need to be transmitted to from the headend to the television converter.

As such, Dougall fails to teach or suggest each and every element of Applicants' claim 43.

Furthermore, Libenzi and Ungstad, alone or in combination fail to bridge the substantial gap between Dougall and Applicants' claim 43.

Libenzi discloses a system for providing a multi-tiered hierarchical transient message store. As disclosed in Libenzi, the hierarchical message store is logically structured with a plurality of storage nodes, where each storage node is dependently linked to one of a plurality of index nodes, and where each index node is dependently linked to a root node. As further disclosed in Libenzi, an incoming message is intercepted at a network domain boundary and assigned a unique filename, an index hash (of the unique filename, corresponding to one such index node) and a storage hash (of the unique filename, corresponding to one such storage node) are generated, and the message is

stored in the hierarchical message store at the one such index node and the one such storage node. (Libenzi, Abstract).

Libenzi, however, alone or in combination with Dougall, fails to teach or suggest each and every element of Applicants' independent claim 43. Namely, Libenzi fails to teach or suggest at least the limitations of "spinning a plurality of data units from the group consisting of packets and files without transmitting a directory of all of the data units being spun" and "calculating information used to spin the units of data by a common calculation that is used by the television converter to receive the units of data without a directory of all of the data units being spun," as claimed in Applicants' claim 43.

Rather, as disclosed in Libenzi, an index hash and a storage hash are generated using a filename, where the index hash corresponds to an index node and the storage hash corresponds to a storage node. Libenzi is devoid of any teaching or suggestion spinning a plurality of data units from the group consisting of packets and files. Libenzi also is devoid of any teaching or suggestion of calculating information used to spin units of data, much less calculating information used to spin units of data using a calculation that is common to a headend and a television converter such that a directory of data units being spun does not need to be transmitted to from the headend to the television converter.

Furthermore, Ungstad fails to bridge the substantial gap between Dougall and Libenzi and Applicants' claim 43.

Ungstad discloses an apparatus and method to find CRC protected data packets by updating a cyclic redundancy checks (CRC) sum calculated from a data stream of CRC protected packets by adding new data while subtracting an effect of old data, and checking the updated CRC sum for a predetermined result.

Ungstad, however, alone or in combination with Dougall and Libenzi, fails to teach or suggest each and every element of Applicants' independent claim 43. Namely, Ungstad fails to teach or suggest at least the limitations of "spinning a plurality of data units from the group consisting of packets and files without transmitting a directory of all of the data units being spun" and "calculating information used to spin the units of data by a common calculation that is used by the television converter to receive the units of

data without a directory of all of the data units being spun,” as claimed in Applicants’ claim 43.

In the Office Action, the Examiner cites a specific portion of Ungstad (namely, Para. 0012), asserting that the cited portion of Ungstad discloses this limitation of Applicants’ claim 43. Applicants respectfully disagree. Applicants note that the cited portion of Ungstad merely states that a method for updating a cyclic redundancy check (CRC) sum calculated from a data stream of CRC protected packets by adding new data while subtracting an effect of old data, and checking the updated CRC sum for a predetermined result is provided. The cited portion of Ungstad is devoid of any teaching or suggestion of spinning any data units, much less spinning data units without transmitting a directory of all the data units being spun. Similarly, the cited portion of Ungstad is devoid of any teaching or suggestion of calculating any information used to spin data units, much less calculating information used to spin data units by a common calculation that is used by a television converter. The cited portion of Ungstad does not disclose any such limitations.

Thus, since Dougall, Libenzi, and Ungstad each fail to teach or suggest the limitations of “spinning a plurality of data units from the group consisting of packets and files without transmitting a directory of all of the data units being spun” and “calculating information used to spin the units of data by a common calculation that is used by the television converter to receive the units of data without a directory of all of the data units being spun,” a combination of Dougall, Libenzi, and Ungstad (assuming such combination is possible) fails to teach or suggest the limitations of “spinning a plurality of data units from the group consisting of packets and files without transmitting a directory of all of the data units being spun” and “calculating information used to spin the units of data by a common calculation that is used by the television converter to receive the units of data without a directory of all of the data units being spun,” as claimed in Applicants’ claim 43.

As such, Applicants respectfully submit that claim 43 is allowable over Dougall in view of Libenzi, and further in view of Ungstad under 35 U.S.C. 103. Therefore, the rejection should be withdrawn.

Claims 19-24

Claims 19-24 are rejected under 35 U.S.C. 103 as being unpatentable over Dougall in view of Libenzi, and further in view of Rybicki. The rejection is traversed.

The Examiner bears the initial burden of establishing a prima facie case of obviousness. See MPEP § 2141. Establishing a prima facie case of obviousness begins with first resolving the factual inquiries of *Graham v. John Deere Co.* 383 U.S. 1 (1966). The factual inquiries are as follows:

- (A) determining the scope and content of the prior art;
- (B) ascertaining the differences between the claimed invention and the prior art;
- (C) resolving the level of ordinary skill in the art; and
- (D) considering any objective indicia of nonobviousness.

Once the *Graham* factual inquiries are resolved, the Examiner must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. The key to supporting a rejection under 35 U.S.C. §103 is the clear articulation of the reasons why the claimed invention would have been obvious. The analysis supporting such a rejection must be explicit. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006), cited with approval in *KSR Int'l Co. v. Teleflex, Inc.*, 126 S. Ct. 2965 (2006); see also MPEP §2141.

According to MPEP §2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art" (*quoting, In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). In addition, to establish a prima facie case of obviousness the prior art reference (or references when combined) must teach or suggest all elements of the subject claim. *In re Wada*, 2007-3733 (BPAI Jan. 14, 2008) (*citing, CMFT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed.Cir. 2003)).

Dougall, Libenzi, and Rybicki fail to disclose all elements of independent claim 19.

As described hereinabove with respect to claim 1, Dougall and Libenzi, alone or in combination, fail to teach or suggest at least the limitations of "determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications

channel selected to transport said file,” “determining a first identifier based on the DID,” and “transmitting, from the headend via the communications channel, one or more packets associated with the file, each of the one or more packets including the PID and the first identifier, wherein said first identifier is adapted to enable receivers of said communications channel to selectively receive one or more packets associated with the file among packets transported via the communications channel,” as claimed in Applicants’ claim 1.

Thus, Applicants respectfully submit that, at least for the same reasons described hereinabove with respect to Applicants’ claim 1, Dougall and Libenzi, alone or in combination, fail to teach or suggest at least the limitations of “determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel used to transport said file,” “determining a first identifier based on the DID,” and “selectively receiving one or more packets associated with the file, among packets transported via the communications channel, using the PID and the first identifier,” as claimed in Applicants’ claim 19.

Furthermore, Rybicki fails to bridge the substantial gap between Dougall and Libenzi and Applicants’ claim 19.

Rybicki discloses a communication protocol for synchronization of personal information management (PIM) databases. As disclosed in Rybicki, synchronization of PIM databases is performed by running client synchronization software on a client device, running server synchronization software on a server which is connected to the client device over a communications link, having the client synchronization software determine changes made to instances of the PIM database on the client device, transmitting the changes in a single transmission, and having the server synchronization software process the changes for the instances. (Rybicki, Abstract).

Rybicki, however, alone or in combination with Dougal and Libenzi, fails to teach or suggest each and every element of Applicants’ independent claim 19. Namely, Libenzi fails to teach or suggest at least the limitations of “determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel used to transport said file,” “determining a first identifier based on the DID,” and “selectively receiving one or more packets associated with the file, among packets

transported via the communications channel, using the PID and the first identifier,” as claimed in Applicants’ claim 19.

Rather, Rybicki is directed toward synchronization of PIM databases. Rybicki is devoid of any teaching or suggestion of determining a packet identifier (PID) based on a DID, where the DID is determined using a filename. Rybicki also is devoid of any teaching or suggestion of determining a first identifier based on a DID, where the DID is determined using a file identifier. Furthermore, Dougall is devoid of any teaching or suggestion of receiving one or more packets associated with a file, among packets transported via the communications channel, using the PID and the first identifier. Thus, Rybicki fails to teach or suggest Applicants’ claim 19.

Thus, since Dougall, Libenzi, and Rybicki each fail to teach or suggest the limitations of “determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel used to transport said file,” “determining a first identifier based on the DID,” and “selectively receiving one or more packets associated with the file, among packets transported via the communications channel, using the PID and the first identifier,” a combination of Dougall, Libenzi, and Rybicki (assuming such combination is possible) fails to teach or suggest the limitations of “determining a packet identifier (PID) based on the DID, wherein the PID is associated with a communications channel used to transport said file,” “determining a first identifier based on the DID,” and “selectively receiving one or more packets associated with the file, among packets transported via the communications channel, using the PID and the first identifier,” as claimed in Applicants’ claim 19.

As such, Applicants respectfully submit that claim 19 is allowable over Dougall in view of Libenzi, and further in view of Rybicki under 35 U.S.C. 103. Furthermore, since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Dougall in view of Libenzi, and further in view of Rybicki under 35 U.S.C. 103. Therefore, the rejection should be withdrawn.

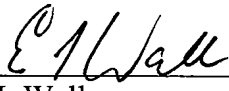
Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 x120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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